Everbright LEGACY LAW

Guide

What does an attorney-in-fact do?

A PRACTICAL GUIDE FOR PEOPLE NAMED IN A POWER OF ATTORNEY

An attorney-in-fact handles financial and legal matters for someone else under a power of attorney. The person who signs the power of attorney is called the principal. You don't need to be a lawyer to serve. Your authority comes from the document, so what you can do depends on the powers it gives you.

EXAMPLES OF WHAT AN ATTORNEY-IN-FACT MAY DO

BANKING AND BILLS

Deposit income, pay bills and regular expenses, and manage the principal's bank accounts. Keep the principal's money separate from your own.

REAL ESTATE

Handle property matters the document allows, such as paying property taxes and insurance, arranging repairs, or signing papers for a sale.

INVESTMENTS AND RETIREMENT ACCOUNTS

Work with financial institutions and advisors on the accounts the power of attorney covers.

BENEFITS AND INSURANCE

Deal with Social Security, Medicare, pensions, and insurance companies for the principal when the document authorizes it.

TAXES

Gather records and work with an accountant to file the principal's tax returns and pay taxes owed.

RECORDKEEPING

Keep receipts, statements, and notes for every transaction you make for the principal.

WORKING WITH OTHERS

Coordinate with the principal's trustee, health care agent, family members, and professional advisors as needed.

WHEN DOES YOUR AUTHORITY START?

Some powers of attorney take effect as soon as they're signed. Others take effect only if the principal becomes incapacitated. Check the document, and ask the attorney if you aren't sure.

WHEN DOES IT END?

Your authority ends when the principal dies. It can end sooner if the principal revokes the power of attorney, if the document sets an end date, or if the principal becomes incapacitated and the document doesn't say it continues in that case. After death, the estate is handled by the personal representative or the trustee, not the attorney-in-fact.

YOUR DUTIES

You must act in the principal's interest, use the care a careful person would use with someone else's property, and keep complete records of every transaction you make on their behalf. The principal, and in some cases others such as a guardian or, after death, the personal representative, can ask you to account for how you handled the principal's money and property.

REMEMBER

- You're handling someone else's money. Don't mix it with yours or use it for your own benefit unless the document clearly allows it.
- Gifts, especially gifts to yourself, and changes to beneficiary designations need specific authority in the document, and Minnesota law can limit the size of gifts an attorney-in-fact makes. Ask the attorney before making them.
- An attorney-in-fact doesn't make medical decisions. That's the job of the health care agent named in a health care directive.
- If you aren't sure you have authority to take an action, ask the attorney before acting.

Minnesota law: Minnesota's power of attorney law is found in Minn. Stat. Chapter 523.

This is a general educational guide, not legal advice. Review the power of attorney before taking action, because its terms may change your responsibilities.

Questions? Call Everbright Legacy Law at (952) 925-4147.